educational and humanitarian, were in no sense park purposes. The injunction was granted. *Williams* v. *Gallatin* (1920) 229 N. Y. 248, 128 N. E. 121.

The instant case reverses the decision of the Appellate Division of the Supreme Court, *Williams* v. *Gallatin* (1920) 191 App. Div. 171, 181 N. Y. Supp. 91. It adopts the view recognized to be sound in a discussion in (1920) 20 Columbia Law Rev. 687, 691, criticizing the conclusion reached by the lower court.

NATURALIZATION—CANCELLATION OF NATURALIZATION CERTIFICATE—FRAUD.—The United States sued the defendant, a native of Germany, under (1906) 34 Stat. 596, 601, U. S. Comp. Stat. (1916) § 4374 to cancel a certificate of naturalization granted in 1904. The government adduced evidence of the defendant's disloyal attitude during the war with Germany, and contended therefrom that his renunciation of foreign allegiance at the time of his naturalization was attended with a mental reservation and constituted a fraud upon the United States. The defendant entered a denial of fraud. From a decree cancelling his certificate of naturalization, the defendant appealed. *Held,* the decree will be affirmed. *Schurmann* v. *United States* (C. C. A. 1920) 264 Fed. 917.

The Act of 1906 clearly applies to the instant case. *United States* v. *Wusterbarth* (D. C. 1918) 249 Fed. 908; *United States* v. *Darmer* (D. C. 1918) 249 Fed. 989; *United States* v. *Kramer* (C. C. A. 1919) 262 Fed. 395. The act derives its validity from Art. I, sec. 8 § 4 of the Constitution. *Johannessen* v. *United States* (1911) 225 U. S. 227, 32 Sup. Ct. 613; *United States* v. *Ginsburg* (1916) 243 U. S. 472, 37 Sup. Ct. 422. The application of the act to certificates of naturalization granted prior to its enactment is not invalid as an *ex post facto* law since its operation is not punitive. *Johannessen* v. *United States, supra.* Nor does the principle of *res judicata* preclude the government from re-opening the matter by direct attack, since the naturalization proceeding was *ex parte. Johannessen* v. *United States, supra; United States* v. *Spohrer* (C. C. 1910) 175 Fed. 440; Moore, 4 Digest International Law (1906) § 422; but *cf. United States* v. *Gleason* (C. C. A. 1898) 90 Fed. 778. A decree of naturalization is in the nature of a grant and may therefore be annulled for fraud. *Johannessen* v. *United States, supra; Luria* v. *United States* (1913) 231 U. S. 9, 34 Sup. Ct. 10. The offer of proof of disloyal utterances of the defendant, thirteen years after his naturalization, should have been refused as altogether too speculative and remote in its relevancy to the defendant's state of mind at that time. Under certain circumstances, subsequent conduct may be shown as probative of one's state of mind at a prior date. Wigmore, Evidence (1904) § 395; *Thayer* v. *Thayer* (1869) 101 Mass. 111. However such conduct must be reasonably proximate to the act in point of time and connection to have any weight as evidence. *State* v. *Kelly* (1904) 77 Conn. 266, 58 Atl. 705; see *Thayer* v. *Thayer, supra.* In the analogous action to set aside a patent for fraud, the government must furnish clear, unequivocal and convincing proof. *United States* v. *Bell Tel. Co.* (1897) 167 U. S. 224, 251, 17 Sup. Ct. 809. In the instant case, the proof offered had no such logical and probative force as to make out even a *prima facie* case.

PLEADING AND PRACTICE—INCONSISTENT CAUSES OF ACTION IN SAME COMPLAINT—CONTRACT AND TORT.—The plaintiff, induced by the false representation of the defendant that he had an export license, chartered